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Joseph Deutsch

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LADAS & PARRY LLP
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NEW YORK, NY 10023

EXAMINER

WYCHE, MYRON

ART UNIT

PAPER NUMBER

2617

NOTIFICATION DATE

DELIVERY MODE

09/17/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/590,002	Applicant(s) DEUTSCH ET AL.	
	Examiner MYRON WYCHE	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/21/06, 7/9/04, 4/14/08, 4/23/08, 7/17/08 and</u> | 6) <input type="checkbox"/> Other: _____ |

2/18/10

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 8/21/06, 7/9/04, 4/14/08, 4/23/08, 7/17/08 and 3/18/10 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1- 5, 7-9, 11-22 and 29-36 are rejected under 35 U.S.C. 102(e) as being by anticipated by US Patent Application Publication No. 20050075093 (Lei et al).

Regarding claim 1, Lei et al. discloses: “obtaining an MMS message” (**FIG. 1; FIG. 4: 401; [0021], [0049]**); applying personalized metadata to the MMS message for at least one targeted recipient according to preferences of the at least one targeted recipient, thereby producing a personalized MMS message (**FIG. 4: 407-412; [0023]**,

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[0052]); and transmitting the personalized MMS message to the at least one targeted recipient, unless the preferences of the at least one targeted recipient indicate that the at least one targeted recipient is not interested in receiving the personalized MMS message”(FIG. 4: 413; **[0052]**-**[0053]**).

Regarding claim 13, Lei et al. discloses: “receiving at a first communication appliance of a first user an MMS message personalized in accordance with preferences of the first user” (FIG. 1: 11-1, 11-2, 14; FIG. 4: 401; **[0021]**, **[0049]**; FIG. 4: 407-412; **[0023]**, **[0052]**); and transmitting from the first communication appliance a request to transmit the MMS message to a second communication appliance of a second user ” (FIG. 1: 12-1, 12-2, 130, 15, MMS-123; **[0021]**-**[0025]**; FIG. 4: 413; **[0052]**-**[0053]**).

Regarding claim 29, Lei et al. discloses: a dispatcher processor obtaining an MMS message, and applying personalized metadata to the MMS message for at least one targeted recipient according to preferences of the at least one targeted recipient, thereby producing a personalized MMS message (FIG. 1: 11-1, 11-2, 14, 15, 130; FIG. 4: 401; **[0021]**, **[0049]**; FIG. 4: 407-412; **[0023]**, **[0052]**); a dispatcher transmitter operatively controlled by the dispatcher processor to transmit the personalized MMS message to the at least one targeted recipient, unless the preferences of the at least one targeted recipient indicate that the at least one targeted recipient is not interested in receiving the personalized MMS message” (FIG. 1: 12-1, 12-2, 14, 15, 130, MMS-123; **[0021]**-**[0025]**; FIG. 4: 413; **[0052]**-**[0053]**).

With respect to claim 35, Lei et al. discloses: a receiver receiving an MMS message personalized in accordance with preferences of a first user; and

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a transmitter transmitting a request to transmit the MMS message to a communication appliance of a second user (**FIG. 1: 11-1, 11-2, 14; FIG. 4: 401; [0021], [0049]; FIG. 4: 407-412; FIG. 1: 12-1, 12-2, 130, 15, MMS-123; [0021]-[0025]; FIG. 4: 413; [0052]-[0053]; [0023], [0052]; FIG. 2B: 11-1, 11-3, 201**).

Regarding claim 36, Lei et al. discloses: a first communication appliance of a first user; a second communication appliance of a second user; and an MMS message dispatcher system operative to perform the following operations: transmit to the first communication appliance an MMS message personalized in accordance with preferences of the first user; receive from the first communication appliance a request to transmit the MMS message to the second communication appliance; and transmit to the second communication appliance the MMS message personalized in accordance with preferences of the second user” (**FIG. 1: 11-1, 11-2, 14; FIG. 4: 401; [0021], [0049]; FIG. 4: 407-412; FIG. 1: 12-1, 12-2, 130, 15, MMS-123; [0021]-[0025]; FIG. 4: 413; [0052]-[0053]; [0023], [0052]; FIG. 2B: 11-1, 11-3, 201**).

With respect to claims 2, 14-16 and 30-32, Lei et al. discloses: “the preferences of the at least one targeted recipient comprise preferences related to content” (**FIG. 1: 140; FIG. 4: 407-412; [0023]: “version of content to be provided to a user ... may be selected by user preference”**).

Regarding claims 3 and 18, Lei et al. discloses: “the MMS message comprises at least one of the following: content; at least one link to content; and at least one pointer to content (**[0020]: “link”; [0034]: “content”**).

With respect to claims 4 and 19, Lei et al. discloses: “said content comprises at least one of the following: text; video; a stills image; audio; a software attachment; and bundled multimedia ([0020]: “**video or audio content**”).

Regarding claims 5 and 20, it is respectfully submitted that the disclosure by Lei et al. of video content, as discussed in the rejection of claim 4 above, inherently discloses: “at least one of the following: pop-up multimedia; and animated multimedia” ([0020]: “**video or audio content**”).

Regarding claim 7, Lei et al. discloses: “personalized metadata comprises at least one indicator of at least one of the following: a creator of the MMS message; a provider of at least some content comprised in or associated with the MMS message; an MMS message title keyword; sponsorship of at least some content comprised in or associated with the MMS message; cost of at least some content comprised in or associated with the MMS message; a category in the MMS message; a rating of the MMS message; a duration of at least some content comprised in or associated with the MMS message; a creation time of the MMS message; a validity period of the MMS message; a genre of the MMS message; details of a performer performing in at least some content comprised in or associated with the MMS message; and a type of content comprised in or associated with the MMS message ([0020]: “**video or audio content**”; [0048]: “**content provider servers**”).

With respect to claim 8, Lei et al. discloses: “the obtaining comprises obtaining the MMS message from at least one of the following: a content provider; and a user (FIG. 1; FIG. 4: 401; [0020]: “**video or audio content**”; [0021]; [0048]: “**content**

provider servers”; [0049]).

Regarding claim 9, Lei et al. discloses: “the personalized metadata comprises metadata determining a personalized format of presentation of the MMS message” **(FIG. 4: 407-412; [0023], [0052]).**

With respect to claim 11, Lei et al. discloses: “receiving the personalized MMS message at a communication appliance of the at least one targeted recipient” **(FIG. 4: 413; [0052]-[0053]).**

Regarding claims 12 and 22, Lei et al. discloses: “the communication appliance comprises at least one of the following: a cellular telephone; a portable communication device; a personal distal assistant (PDA); a computer based device with input/output (I/O) capabilities; a set-top box (STB); and MMS message reception and display equipment **([0010]: “PDA”).**

Regarding claim 17, Lei et al. discloses: “transmitting comprises transmitting the request to an MMS message dispatcher system” **(FIG. 1: 130).**

With respect to claims 33 and 34, respectively, Lei et al. discloses: “the dispatcher transmitter comprises a cellular telephone transmitter and a mobile operator base station” **(FIG. 2B: 11-1, 11-3, 201).**

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lei et al. in view of US Patent Application Publication No. 20040111476 (Trossen et al.).

Claims 6 and 21 are dependent upon claims 4 and 13, respectively. As discussed above, claim 4 is disclosed by Lei et al. Thus, the limitations of claims 4 and 13 that are recited in claims 6 and 21, respectively, are also disclosed by Lei et al.

However, Lei et al. does not clearly disclose the remaining limitations of claim 6. To that end, in the same field of endeavor, Trossen et al. discloses: “the bundled multimedia comprises at least one of the following: Shockwave TM multimedia; Flash TM multimedia; a synchronized multimedia integration language (SMIL) file; and a simple animation format (SAF) file” ([0044]: “SMIL”). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Lei et al. with Trossen et al. in order to provide the capability to handle popular multi-media formats.

Claims 10, 23-28 and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lei et al. in view of US Patent Application Publication No. 20040198279 (Antilla et al.).

Claim 10 is dependent upon claim 9. As discussed above, claim 9 is disclosed by Lei et al. Thus, the limitations of claim 10 that are recited in claim 9 are also disclosed by Lei et al.

However, Lei et al. does not clearly disclose the remaining limitations of claim 10. To that end, in the same field of endeavor, Antilla et al. discloses: “the personalized

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format of presentation of the MMS message comprises at least one of the following: a personalized icon based format; and a personalized menu based format” (**FIG. 2**). It is respectfully submitted that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Lei et al. to include the display system of Antilla et al. in order to make the device more user friendly.

With respect to claim 23, Lei et al. discloses: “receiving the personalized MMS message (**FIG. 1: 11-1, 11-2, 14; FIG. 4: 401; [0021], [0049]; FIG. 4: 407-412; [0023], [0052]**); processing personalized metadata associated with the personalized MMS message to generate personalized parameters determining a format of presentation of at least a portion of content comprised in or associated with the personalized MMS message; and transmitting from the first communication appliance a request to transmit the MMS message to a second communication appliance of a second user ” (**FIG. 1: 12-1, 12-2, 130, 15, MMS-123; [0021]-[0025]; FIG. 4: 413; [0052]-[0053]**). Antilla et al. discloses: using the personalized parameters in an electronic content guide (**FIG. 2**).

Regarding claim 24, Antilla et al. discloses: “employing at least some of the personalized parameters to create a personalized structure of the ECG” (**FIG. 2**).

With respect to claim 25, Antilla et al. discloses: “enabling a user to view the at least a portion of content comprised in or associated with the personalized MMS message (**FIG. 2**). Lei et al. discloses: “an indication of agreement by the user to pay for viewing the at least a portion of content” (**[0043]: “pay for MMS message download”**).

With respect to claim 26, Antilla et al. discloses: “enabling a user to listen to the

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at least a portion of content comprised in or associated with the personalized MMS message (**FIG. 2**). Lei et al. discloses: “an indication of agreement by the user to pay for listening to the at least a portion of content (**[0043]: “pay for MMS message download”**)

With respect to claim 27, Antilla et al. discloses: “said format of presentation comprises at least one of the following: an icon based format; and a menu based format (**FIG. 2**)

Regarding claim 28, Antilla et al. discloses: “said format of presentation comprises a format of presentation adapted for performance of selections from the at least a portion of content comprised in or associated with the personalized MMS message” (**FIG. 2**).

Regarding claim 37, Lei et al. discloses: “a receiving element receiving the personalized MMS message; and a processor processing personalized metadata associated with the personalized MMS message to generate personalized parameters determining a format of presentation of at least a portion of content comprised in or associated with the personalized MMS message (**FIG. 1: 11-1, 11-2, 14; FIG. 4: 401; [0021], [0049]; FIG. 4: 407-412; FIG. 1: 12-1, 12-2, 130, 15, MMS-123; [0021]-[0025]; FIG. 4: 413; [0052]-[0053]; [0023], [0052]; FIG. 2B: 11-1, 11-3, 201**)

Antilla et al. discloses: “using the-personalized parameters in an ECG” (**FIG. 2**).

Regarding claims 38- 29, Lei et al. discloses: “a cellular telephone comprising the apparatus of claim 37 and a set-top box (STB) comprising the apparatus of claim 37, respectively (**[0010]**)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MYRON WYCHE whose telephone number is 571-272-3390. The examiner can normally be reached on Monday-Friday, 8 a.m. to 5 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on 571-272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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